IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.68842-M of 2006

DATE OF DECISION: NOVEMBER 21, 2006

Mohinder Pal Singh Saini

...PETITIONER

VERSUS

State (Union Territory of Chandigarh)

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.A.D.S.Sukhija, Advocate,
for the petitioner.

Mr.Gautam Dutt, Advocate
for Mr.R.S.Rai, Senior Standing Counsel
for U.T.Chandigarh.

...

The petitioner has filed this petition under Section 482 Cr.P.C. for grant of permission to visit abroad to attend the engagement ceremony of his daughter as well as in connection with his business.

The petitioner is engaged in the manufacture and distribution of electronic security products and has his unit in the name of Interface Communication Group at Industrial Area, Mohali.

In November, 2003, the petitioner was named as an accused in case FIR No.511 dated 25.11.2003 under Sections 379,419,420,467,120-B IPC, Section 3,6(1)(A) of the Indian Wireless Telegraphic Act, 1933 and Sections 20,21 and 25 of the Indian Telegraphy Act, 1885 registered at Police Station Sector 17, Chandigarh. The allegation against the petitioner is that he was running unauthorized telephone exchange and causing loss to the revenue. In the said case, the petitioner was ordered to be released on

regular bail vide order dated February 22, 2004 subject to his surrendering his passport before the trial Court.

After the investigation, challan has already been filed and now the case is fixed before the trial Court for 13.12.2006 for arguments on charge.

The petitioner filed an application before the trial Court for permission to go abroad in connection with business purpose. The said application has been dismissed by the JMIC, Chandigarh vide order dated 19.10.2006 on the ground that the trial Court was not authorized to consider such requests because earlier the petitioner had filed a similar petition, i.e., Crl.Misc.No.21285-M of 2005, in which this Court vide order dated May 18, 2005 had granted permission to the petitioner to visit abroad, therefore, permission to go abroad can only be granted by this Court.

I have heard the counsel for the parties and gone through the record of the case.

Counsel for the petitioner states that the petitioner has a well settled and flourishing business and he has been visiting abroad quite frequently before registration of the aforesaid case in connection with his business. The petitioner also has many relatives and friends, who are settled abroad and the petitioner has to visit those relatives on the occasions of functions etc. in their home. Counsel further contends that the engagement ceremony of his daughter was earlier supposed to be performed on 28.10.2006, but as the necessary permission was not granted by the trial Court, the ceremony has now been postponed and the same would be fixed only in conformity with the grant of permission to the petitioner to visit abroad by this Court. Counsel also contends that it is very embarrassing and

awkward to fix the date of the engagement ceremony and then to postpone the same time and again.

Counsel for the petitioner further contends that the previous conduct of the petitioner will clearly show that he has been regularly appearing before the trial Court on each and every date and has never misused the concession of bail granted to him. Counsel further contends that earlier also this Court was kind enough in allowing the petitioner to visit abroad and the petitioner has in turn honoured the verdict of this Court. Counsel submits that the petitioner is willing to furnish heavy surety to establish his bona fide intention to return back to India before the next date fixed before the trial Court, i.e., December 13, 2006, after permission is granted to visit abroad.

On the other hand, counsel for the respondent-State states that there is apprehension that the petitioner may not return back to India, therefore, heavy surety be taken from the petitioner in case permission is granted to the petitioner to visit abroad.

After hearing the counsel for the parties, I am of the opinion that the petitioner may be given permission to visit abroad for a short period on furnishing heavy security with an undertaking that he will return back to India by December 13, 2006. Since in the trial Court the case is fixed for December 13, 2006 for arguments on charge, in my opinion, the short foreign visit will not cause any hindrance in the trial of the case.

In view of the aforesaid, this petition is allowed. The petitioner is granted permission to visit abroad for a short period to attend the engagement ceremony of his daughter as well as in connection with his business activities with the condition that he will furnish an undertaking to

return back to India by December 13, 2006 and will also furnish a security of Rs.5.00 lacs to the satisfaction of the trial Court.

November 21, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE